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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/899,607	07/05/2001	Rita Andreoli	207275.0337 (CUNO-405)	4967

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EXAMINER

NAFF, DAVID M

ART UNIT

PAPER NUMBER

1651

DATE MAILED: 08/26/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/899607

Applicant(s)

Andreoli et al

Examiner

Haff

Group Art Unit

1651

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 7/5/01
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-45 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☒ Claim(s) 1-45 are subject to restriction or election requirement.

## Application Papers

- ☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☒ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

Office Action Summary

Claims in the application are 1-45.

Restriction to one of the following inventions is required under 35  
U.S.C. 121:

I. Claims 1-14 and 45, drawn to a method of fabricating a non-  
luminescent multi-cell substrate useful for carrying out a  
microarray of biological polymers, classified in class 435,  
subclass 4.

II. Claims 15-31, drawn to a multi-cell substrate useful for  
carrying out a microarray of biological polymers wherein there  
is present a substantially non-reflective microporous membrane  
which provides little fluorescence from about 300 nm to about  
700 nm, classified in class 435, subclass 297.1.

III. Claims 32-44, drawn to a multi-cell substrate useful for  
carrying out a microarray of biological polymers wherein there  
is present an optically-passive substrate that absorbs light at  
substantially all wave lengths from about 300 nm to about 700  
nm, classified in class 435, subclass 283.1.

The inventions are distinct, each from the other because:

Invention I is related to inventions II and III as process of making  
and product made (multi-cell substrate). The inventions are distinct if  
either or both of the following can be shown: (1) that the process as  
claimed can be used to make other and materially different product or (2)  
that the product as claimed can be made by another and materially  
different process (MPEP § 806.05(f)). In the instant case, the process  
of Group I can make a different multi-cell substrate than required by the

claims of Group II since the process does not require the multi-cell substrate made to have a substantially non-reflective microporous membrane which provides little fluorescence from about 300 nm to about 700 nm as in claim 15 of Group II, and the process of Group I can make a different multi-cell substrate than required by the claims of Group III since the process does not require the multi-cell substrate made to have an optically-passive substrate that absorbs light at substantially all wave lengths from about 300 nm to about 700 nm as in claim 32 of Group III. Additionally, preparing the multi-cell substrates of Groups II and III does not require process steps as required by Group I.

Groups II and III are distinct since each is drawn to a different multi-cell substrate such that each multi-cell substrate can be produced and used without producing and using the other since the multi-cell substrate of Group II requires a substantially non-reflective microporous membrane which provides little fluorescence from about 300 nm to about 700 nm, and the multi-cell substrate of Group III requires an optically-passive substrate that absorbs light at substantially all wave lengths from about 300 nm to about 700 nm.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application.

5 Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

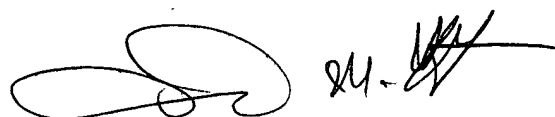
Any inquiry concerning this communication or earlier communications from the examiner should be directed to David M. Naff whose telephone number is (703) 308-0520. The examiner can normally be reached on  
10 Monday-Thursday and every other Friday from about 8:30 AM to about 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, a message can be left on voice mail.

If attempts to reach the examiner by telephone are unsuccessful, the  
15 examiner's supervisor, Mike Wityshyn, can be reached at telephone number (703) 308-4743.

The fax phone number is (703) 872-9306 before final rejection or (703) 872-9307 after final rejection.

Any inquiry of a general nature or relating to the status of this  
20 application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

  
DAVID M. NAFF  
PRIMARY EXAMINER  
ART UNIT 1651